IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9564 OF 2004

Narayan Daulu Kamble. ...Petitioner.

Vs.

Bharat Aba Kamble & Ors. ...Respondents.

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Mr.Amit B.Borkar for the Petitioner.

Mr.V.B.Rajure for Respondent Nos.1 and 2.

Respondent Nos.3 to 5 served.

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CORAM : DR.D.Y.CHANDRACHUD, J.

April 7, 2005.

P.C. :

1. Rule, returnable forthwith. Counsel appearing on behalf of the First and Second Respondents waives service. By consent taken up for hearing and final disposal.

2. The First and Second Respondents are the original Plaintiffs in a suit for possession (R.C.S.59 of 1999) filed before the Civil Judge,

Senior Division, Kolhapur. The suit was decreed by the Trial Court on 16th December 2002. The Petitioner filed an appeal which was admitted on 11th February 2003 and an order of status quo was passed on 9th April 2003. This order held the field until 5th October 2004 on which date, the Appellate Court dismissed the application for interim relief.

3. There is merit in the submission of the Petitioner that the Appellate Court has recorded no reasons at all while dismissing the application. This is clear from the impugned order which is annexed at Exh.G to the Petition. When notice was issued on this Petition, on 8th December 2004, an order of status quo came to be passed, but it was clarified that this would not stand in the way of the disposal of the appeal on merits.

4. Having regard to all these facts and circumstances of the case, it would, in my view, be appropriate to continue the order of status quo that has operated during the pendency of these proceedings and to direct the Appellate Court to expedite the disposal of the appeal if the appeal has not already been disposed of.

5. The Petition is accordingly allowed in the aforesaid terms and the impugned order of the Appellate Court dated 5th October 2004 is quashed and set aside. There shall be no order as to costs.

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